

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

O'NEAL A. COLES,

Plaintiff,

v.

Civil Action No. 3:13CV170

NURSE RAWLS, et al.,

Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on May 3, 2013, the Court conditionally docketed the action. On May 13, 2013, the United States Postal Service returned the May 3, 2013 Memorandum Order as undeliverable. Also, on May 13, 2013, Coles informed the Court that he had been released from incarceration and provided a new address. Accordingly, by Memorandum Order entered May 23, 2013, the Court directed O'Neal to submit a statement under oath or penalty of perjury that:

- (A) Identifies the nature of the action;
- (B) States his belief that he is entitled to relief;
- (C) Avers that he is unable to prepay fees or give security therefor; and,
- (D) Includes a statement of the assets he possesses.

See 28 U.S.C. § 1915(a)(1). The Court provided Coles with an in forma pauperis affidavit form for this purpose. The Court warned Coles that a failure to return the in forma pauperis affidavit within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Coles has not complied with the order of this Court. Coles failed to return the in forma pauperis affidavit. As a result, he does not qualify for in forma pauperis status. Furthermore, he has not paid the statutory filing fee for the instant action. See 28 U.S.C. § 1914(a). Such conduct demonstrates a willful failure to prosecute. See Fed. R. Civ. P. 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

The Clerk is DIRECTED to send a copy of the Memorandum Opinion to Coles.

_____/s/ REP_____
Robert E. Payne
Senior United States District Judge

Date: September 3, 2013
Richmond, Virginia